

SENATE CHAMBER,
AUSTIN, TEXAS, May 15, 1873.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the Rev. Dr. Fisher.

On motion of Senator Franks, the reading of the journal of last Monday was dispensed with.

Senator King, chairman of the Committee on Indian Affairs, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Indian Affairs, to whom was referred Senate bill No. 251, entitled "An act allowing bounties on wolf scalps," having carefully examined the same, instruct me to report it back to the Senate and recommend its passage.

HENRY C. KING, Chairman.

Senator Franks offered the following resolution:

Resolved, That the President of the Senate and Speaker of the House of Representatives are hereby authorized and required to adjourn their respective bodies *sine die*, on the twenty-fifth day of May, at 12 o'clock M.

Read and laid over under the rules.

Senator Tracy offered the following resolution, which was adopted:

Resolved, That the funeral expenses of the late J. H. Murray, assisstant doorkeeper of the Senate, be paid out of the contingent fund of the Senate, and that the chairman of the Contingent Expense Committee be and is hereby authorized to audit and approve the same.

Senator King introduced a joint resolution appropriating seven hundred and fifty dollars to purchase Winchester rifles for certain citizens. Read first time; rules suspended, read second time and ordered engrossed; rules further suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dohoney, Evans, Finlay, Fountain, Gaines, Hall, Henry, King, Rawson, Randle, Saylor, Sayers, Tendick, Tracy and Word—19.

Nay—Senator Swift—1.

On motion of Senator Dohoney, the sergeant-at-arms was granted leave of absence for five days from to-morrow.

Senator Tendick introduced a bill to be entitled "An act to incorporate the Columbus Engine Hook and Ladder Company." Read first time and referred to the Committee on State Affairs.

Senator Finlay, chairman *pro tem.* of the Committee on State Affairs, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred the message of the Governor on the subject of quarantine, having duly considered the same, ask leave to report to the Senate the accompanying bill and recommend its passage.

GEO. P. FINLAY, Chairman.

On motion of Senator Finlay, the rules were suspended to consider the report.

The bill was read first time; rules suspended, read second time and ordered engrossed; rules further suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Fountain, Franks, Gaines, Hall, Henry, King, Rawson, Randle, Saylor, Sayers, Swift, Tracy, Word and Mr. President—22.

The following messages from his Excellency were taken from the President's desk and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, May 10, 1873. }

To the Honorable Senate of the State of Texas:

GENTLEMEN: I would respectfully ask your advice and consent to the following appointments, to-wit:

T. H. Conklin, Notary Public, Harris county.

J. R. Lynn, Notary Public, Refugio county.

David H. Hewlett, Notary Public, McLennan county.

Charles H. Porter, Notary Public, Lampasas county.

R. D. McClellan, Notary Public, Fayette county.

Ed. Collins, Notary Public, Lamar county.

J. M. Mays, Notary Public, Panola county.

E. A. Jeter, Notary Public, Panola county.

Francis Emerson, Notary Public, Collin county.

Very respectfully,

EDMUND J. DAVIS, Governor.

EXECUTIVE OFFICE, STATE OF TEXAS,
AUSTIN, May 10, 1873.

To the Honorable Senate of the State of Texas:

GENTLEMEN: I would respectfully ask your advice and consent to the following appointment, to-wit:

I. N. Sawyer, pilot commissioner for Galveston Bay.

Very respectfully,

EDMUND J. DAVIS, Governor.
EXECUTIVE OFFICE, STATE OF TEXAS,
AUSTIN, May 9, 1873.

*To the Honorable Senate and House of Representatives
of the State of Texas:*

GENTLEMEN: I have concluded that I cannot approve the act originating in the House of Representatives, entitled "An act to release certain taxes to the residents of the counties of Montague, Wise, Parker, Hood, Erath, Hamilton, Lampasas, Burnet, Blanco, Kendall, Bandera, Medina, Frio, McMullen, Duval, Starr, and all the counties lying west and southwest of the same," but as I have not returned it with objections, it became a law to-day by force of the Constitution.

The tenderness towards our suffering frontiersmen which I feel, in common with, I suppose, most other people, has prompted me to overlook the obstacle presented to the passage of such an act by the Constitution, in section nineteen of article twelve, but I must not permit this sentiment to stand in the way of my pointing out to you the circumstance, that under cover of relief to those sufferers, many counties have been, I may say, *run* into the act, which have no fair claim to be called frontier counties—at any rate no fairer claim than have many other counties excluded therefrom.

The counties of Wise, Parker, Hood, Lampasas, Starr, etc., are no more liable to raids of Indians than are Travis, Hays or Bexar. They are populous and wealthy (Parker, for instance, by the census of 1870, had upwards of 4000 people, and has now a population double that), and are a hundred miles or more within the outside settlers. Some of them) such as Lampasas, suffer a great deal more affliction from white desperadoes than from Indians.

The people of the frontier counties should be protected; but a better plan therefor than this remission of tax, and also one less liable to constitutional difficulty would be

the employment of minute companies or other similar organizations, made up of the frontiersmen, whose time thus employed in defense of themselves and neighbors would be recompensed by the State, thereby offering some guarantee that the hundred thousand dollars thus annually to be given to the frontier will actually benefit the needy pioneer himself, who, with his plow and rifle, but perhaps very little more of worldly goods to pay taxes on, is extending our settlements into the wilderness. It was, however, the understanding that such companies would not be authorized that finally prevailed with me not to make an objection that might defeat all relief to the frontier. But if not too late, I trust the act may yet be modified. In its present shape the courts may be compelled to hold it invalid. On this point I herewith transmit a copy of an opinion of the Hon. Wm. Alexander, Attorney General.

The amount of tax remitted by this act will probably be about \$100,000 per annum, and for *three* years not *two*, as the act would seem at first sight to warrant.

Very respectfully,

EDMUND J. DAVIS, Governor.

OPINION.

ATTORNEY GENERAL'S OFFICE, }
AUSTIN, May 5, 1873. }

House bill No. 662, intended to release taxes to the inhabitants of certain frontier counties therein named, has been carefully examined. It practically exempts for three years, though apparently operative only for two. It is clearly an attempted evasion of sections five (V), of article twelve (XII), and of section six (VI) of article nine (IX) of the Constitution, as well as of section two (II) of the Bill of Rights.

No "pre-existing law" provides for the compensation of any of our citizens for exercising the right of self defense of themselves, their families and property. The poll tax, which has to be expended among those who pay it, being a tax prescribed by the Constitution, cannot be set aside by a statute. The Legislature is required to make taxation "equal and uniform throughout the State"—not throughout all of the State except the frontier; and the Bill of Rights declares that "no man or set

of men is entitled to exclusive, separate public emoluments or privileges"—not even in consideration of public services, as was formerly the case.

The bill is unconstitutional.

(Signed)

WM. ALEXANDER,
Attorney General.

A true copy:

JOHN J. STEVENS,

Private Secretary.

Senator Henry submitted the following report, which was adopted :

Hon. E. B. Pickett, President of the Senate, and Hon. M. D. K. Taylor, Speaker of the House of Representatives :

SIRS: Your committee of free conference, to whom was referred Senate bill No. 52, with amendments by the House, have considered the same, and respectfully recommend the following :

1. That the Senate agrees to the first amendment made by the House, to-wit, to the caption of the bill.

2. That the House recede from its second amendment.

3. That the House recede from its third amendment.

4. That the Senate agrees to the fourth amendment.

5. That the House recede from its fifth amendment to the Senate bill.

6. That the Senate agrees to the sixth amendment made by the House.

7. That the Senate agrees to so much of the seventh amendment by the House as strikes out section eight of Senate bill, and the House recedes from so much of said amendment as strikes out section nine of Senate bill.

8. That the Senate agrees to so much of House amendment eight as changes section ten of Senate bill to section twenty-one, and the House recedes from the remainder of said amendment.

9. The Senate agrees to so much of House amendment nine as changes section eleven to twenty-two, and section twelve to twenty-four instead of twenty-six, to which the House agrees.

10. Senate agrees to House amendments to the following sections of the probate law, to which the Senate's bill is amendatory, to-wit: House amendments to sections 20, 43, 45, 63, 68, 129, 139, 146, 176, 182; and Senate agrees to House amendment to section 192 with the following amendment to House amendment of said section

192, to-wit: Add before the first word "claims," of the last sentence in said section, as amended by the House, the word "unliquidated," to which said amendment the House agrees.

11. The Senate agrees to House amendment of section 243 with the following amendment to said amendment, to which the House agrees: Strike out after the figures "243," in third line, down to the word "and," in eighth line, and instead thereof insert the following: "All public sales of real estate made by the order or decree of the district court, in matters of probate, shall be made on the first Tuesday of the month, at the court house door of the county where such sale is ordered; and the administrator or executor shall give public notice of such sale by publishing a notice of the same for three successive weeks prior to the day of sale, such publication to be once each week in a newspaper, if there be one published in the county where such sale is made; if there is no paper published in the county where such sale is made, then such notice shall be given by posting written or printed notices, of the time and place of sale, in at least three public places in the county where the land is situated, one of which public places shall be the court house door," to which said amendment the House agrees.

12. The Senate agrees to the House amendment to sections 246, 291, and to the repealing section of House amendment, except so much of same as repeals section 252, from which the House recedes.

13. The House recedes from its amendment to section 251 of probate law.

14. The House recedes from its amendment to section thirteen of Senate bill.

15. The House recedes from its amendment termed "additional," on the last page of its engrossed amendments.

16. Strike out section fourteen, the repealing clause of Senate bill; section thirteen of Senate bill will become section twenty-five, and repealing clause House amendments section twenty-six.

All of which is respectfully submitted by the committee, with the recommendation that the same be adopted.

JOHN L. HENRY,

Chairman Senate Committee.

W. D. WOOD,

Chairman House Committee.

Senator Flanagan submitted the following report:
Hon. E. B. Pickett, President of the Senate:

SIR: Your committee appointed to confer with a like committee from the House, on House bill No. 467, entitled "An act to adjust and define the right of the Texas and Pacific Railway Company within the State of Texas, in order to encourage the speedy construction of a railway through the State to the Pacific Ocean," have considered the same, and agree to recommend that the Senate's third amendment to section one shall be substituted with the following: "*Provided*, said road shall be completed and put in running order to the main line of the Trans-Continental road, near Texarkana, or from such point on said line as the railroad now being constructed from Little Rock to a junction with said Trans-Continental road may cross the Arkansas State line, the same not being more than seven miles north of Texarkana, by January 1874; and shall build and maintain a depot within one-half mile of the town of Clarksville."

Also recommend that section two be made to harmonize with the preceding amendment, by inserting in the ninth line of engrossed bill, after the word "Texarkana," and before the word "to," the following: "or to the point of junction of the Trans-Continental road on the Arkansas State line with the road now being constructed from Little Rock, thence."

That the Senate recede from the fifth amendment of section four, which struck out the word "issuance," in line seven, and inserted the word "location."

And that the Senate adhere to its other amendments.

WEBSTER FLANAGAN,
for Senate Committee.

GEO. W. SMITH,
for House Committee.

The report was adopted by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Fountain, Franks, Gaines, Hall, Henry, King, Rawson, Randle, Ruby, Saylor, Sayers, Swift, Tendick, Tracy, Word and Mr. President—25.

Senator Finlay, chairman of Judiciary Committee No. 2, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was

referred House bill No. 853, to be entitled "An act supplementary to and amendatory of an act to reincorporate the city of Corpus Christi," having carefully considered the same, I am instructed to report it back and recommend its passage, with the accompanying amendment.

GEO. P. FINLAY, Chairman.

Amend section one by striking out all after the word "beginning," in line fourteen.

On motion of Senator Finlay, the rules were suspended to consider the report just read.

The bill was read second time and passed to third reading; rules further suspended, read third time and passed.

On motion of Senator Saylor, the rules were suspended, and Senate bill No. 135, "An act regulating paupers and minor offenders, and to establish county farms for manual labor, poor houses and houses of correction," was taken up and referred to the following select committee, viz.: Senators Saylor, Word and Ball.

On motion of Senator Dohoney, the rules were suspended and House bill No. 35, "An act to authorize parties in certain cases to sue in the district courts for head-right certificates and bounty and donation warrants, and to provide for the issuance of such certificates and warrants," together with the report of the committee recommending a substitute, taken up.

The Senate refused to adopt the substitute.

The bill was read second time, and the report of the committee recommending amendments adopted, and passed to a third reading; rules further suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dohoney, Evans, Fountain, King, Rawson, Swift, Tendick, Tracy and Word—13.

Nays—Senators Dillard, Finlay, Flanagan, Franks, Gaines, Hall, Henry, Randle, Saylor and Sayers—10.

Senator Sayers offered the following resolution, which was adopted:

Resolved, That the secretary of the Senate be required to have printed for the use of the Senate three hundred copies each of the bills regulating elections and providing for the registration of voters, and also one hundred additional copies of the same in the Spanish language, and also one hundred copies in the German language.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 407, "An act to incorporate the Central Texas Agricultural and Mechanical Fair Association."

House bill No. 820, "An act to regulate sales of property made under decrees of courts and executions."

House bill No. 871, "An act to amend section two of an act amendatory of and supplemental to an act entitled an act to incorporate the city of New Braunfels, approved January 7, 1860."

House bill No. 869, "An act to amend the tenth and twelfth sections of an act to regulate proceedings in the district courts."

House bill No. 885, "An act for the relief of E. A. Merchant."

House bill No. 868, "An act to amend the first and fourth sections of an act entitled an act to reduce into one and amend the several acts."

House bill No. 888, "An act to amend an act to provide for districting the State of Texas into judicial districts."

House bill No. 561, "An act to incorporate a Savings Bank in Bonham, Texas."

House bill No. 66, "An act to amend an act to incorporate the Dallas and Wichita Railroad Company, and to aid in the construction thereof."

House bill No. 877, "An act to authorize the County Court of Colorado county to levy a special tax for the erection of a county jail."

House bill No. 570, "An act to create the county of Wedgefarth."

House bill No. 876, "An act to incorporate the Navasota Real Estate and Building Association."

House bill No. 589, "An act to incorporate the Texas University."

House bill No. 867, "An act to levy a special tax in the county of Angelina for the purpose of building a court house and jail."

House bill No. 288, "An act for the relief of the heirs or assigns of E. S. Williams, deceased."

House bill No. 858, "An act to authorize the County Court of Gillespie county to contract a loan by issuing interest-bearing bonds for the purpose of building a court house and jail."

House bill No. 470, "An act to compensate Aaron S.

Mangum for services rendered as a soldier in the army of the Republic of Texas."

House bill No. 852, "An act to prohibit the sale or otherwise disposing of spirituous or intoxicating liquors within six miles of the Little River Academy, in Bell county, Texas."

House bill No. 866, "An act to prohibit the sale of, bartering, or giving away spirituous or intoxicating liquors within five miles of Bethel Church and Seminary, in Lavaca county."

House bill No. 396, "An act granting H. M. Mathis, principal, and Col. L. D. DeLyon, Miss Mollie E. Beaver, Miss Fannie Bradford and Miss Nannie Hughes, assistant teachers of the Dangerfield High School, the privilege of granting diplomas to students who complete their course of study."

House bill No. 875, "An act to incorporate the Texas Well and Irrigating Company."

House bill No. 870, "An act to authorize J. T. Veal to remove the obstructions to the navigation of Little Cypress Bayou."

House bill No. 865, "An act to validate bounty land warrant No. —, issued to the heirs of Thomas Jackson."

House bill No. 631, "An act to authorize the County Court of Brazos county to levy and collect a special tax of one-fourth of one per cent., to complete the courthouse, and make more secure the jail in said county."

House bill No. 776, "An act to prevent the herding of stock on certain land therein named."

House bill No. 856, "An act to incorporate the officers and members of Gaiety Lodge No. 84 of the I. O. O. F., at Carthage, Texas."

House bill No. 859 "An act to prohibit the sale and giving away of intoxicating liquors within three miles of Prairie Grove Church, in Hill county, and Evergreen, Washington county, Texas."

House bill No 874 "An act to authorize the County Court of Colorado county to issue interest-bearing bonds for the purpose of funding the present outstanding indebtedness of said county."

House bill No. 863, "An act to amend section three of an act supplementary to an act to provide for the payment of the public debt of the State of Texas,"

Also informing the Senate that the House had adopted

the report of the committee of conference on House bill No. 467, "An act to adjust and define the rights of the Texas and Pacific Railroad Company within the State of Texas, in order to encourage the speedy construction of a Railway through to the Pacific Ocean."

The following resolution was taken up, viz.:

Resolved, That from and after this day no private bills or resolutions, or business of a private character, shall be considered or acted upon by this body until all the bills of a public or general character, affecting the whole people of the State, shall have been acted on and disposed of.

The resolution was adopted by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Flanagan, Franks, Hall, Henry, King, Rawson, Ruby, Swift, Tendick, Word and Mr. President—16.

Nays—Senators Baker, Evans, Finlay, Gaines, Sayers and Tracy—6.

On motion of Senator Franks, House bill No. 848, "An act to provide for the investigation of fires in certain cases," was taken up and referred to Committee on State Affairs.

Senator Tracy submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Enrolled Bills beg leave to report that they have examined and compared the following Senate bills:

Senate bill No. 241, "An act to amend sections thirteen, fourteen, sixteen and seventeen of an act entitled an act to incorporate the town of Palestine, in Anderson county."

Senate bill No. 293, "An act for the relief of A. Howell."

Senate bill No. 342, "An act to authorize and require the County Court of Robertson county to retire certain county scrip therein specified, and to issue the bonds of said county in lieu thereof."

Senate bill No. 97, "An act to incorporate the Hallville Masonic Institute, at Hallville, Harrison county, Texas."

Senate bill No. 322, "An act to authorize G. W. Harper to construct and keep a toll bridge across South Sulphur Fork of Red River."

Senate bill No. 274, "An act to validate and supplement the charter of the Bastrop Coal Company of Texas."

Senate bill No. 256, "An act to authorize the County Court of Lampasas county to levy a special tax."

Senate bill No. 263, "An act to incorporate the town of Zavala, in the county of Smith."

And find the same correctly enrolled.

J. G. TRACY, for Committee.

Senator Henry, chairman of Judiciary Committee No. 1, made the following reports :

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Judiciary No. 1, to whom was referred House bill No. 850, entitled "An act prescribing the times of holding general elections in this State," having carefully examined the same, instruct me to report it back with the recommendation that it do pass.

JOHN L. HENRY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Judiciary No. 1, to whom was referred House bill No. 197, entitled "An act to authorize the county courts of the several counties to keep up and to improve roads and bridges," after careful consideration of the same, ask leave to report it back and recommend its passage.

JOHN L. HENRY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 1, to whom was referred Senate bill No. 347, entitled "An act amendatory of and supplementary to an act concerning private corporations, approved December 2, 1871," instruct me to report the same back and recommend that it do not pass.

JOHN L. HENRY, Chairman.

Senator Tracy submitted the following report :

Hon. E. B. Pickett, President of the Senate:

SIR: On behalf of your Committee on Enrolled Bills I beg leave to report that on Monday, the twelfth instant, at 11 o'clock A. M., I presented to his Excellency the Governor for his signature and approval, the following Senate bills, to-wit:

No. 228, "An act to incorporate the town of Jacksonville, in Cherokee county."

No. 305, "An act to incorporate the Texas Land and Colonization Company."

No. 297, "An act for the relief of R. C. Hunt."

No. 327, "An act supplemental to an act entitled an act

reimbursing Bastrop county, and appropriating the sum of two hundred and twenty-five dollars for that purpose, approved March 20, 1873."

J. G. TRACY, Chairman.

Senator Flanagan offered the following resolution:

1. *Resolved*, That the witnesses who have been duly summoned, and appeared before the Senate in the case of the House of Representatives and the people of Texas v. John G. Scott, Judge of the Tenth Judicial District of the State, be allowed twelve and a half cents per mile for every mile traveled in coming to and returning from the capital, and three dollars *per diem* for each days' attendance on the Senate sitting as a high court of impeachment, the same to be paid out of the contingent expenses of the Senate; and the sworn statement of the witness as to the number of days attendance and mileage, approved by the chairman of the Committee on Contingent Expenses, and approved by the President and secretary of the Senate, shall be sufficient evidence for the Comptroller to draw his warrant for the several amounts to which said witnesses may be entitled.

2. *Resolved*, That for serving process the sheriffs shall be allowed the fees allowed by law for similar services in the district court, to be paid out of the same fund, and upon the same conditions required in this resolution for mileage and *per diem* of witnesses.

Senator Franks proposed to amend the resolution by striking out "three dollars" wherever it occurs, and inserting "four dollars," which was lost by the following vote:

Yeas—Senators Cole, Flanagan, Fountain, Franks, Hall, Ruby, Saylor and Word—8.

Nays—Senators Avinger, Baker, Ball, Dillard, Dohoney, Evans, Finlay, Gaines, Henry, King, Rawson, Randle, Sayers, Swift, Tendick and Tracy—16.

The resolution was then adopted.

On motion of Senator Dohoney the special order, viz., the school bill and the veto message, were postponed until to-morrow at 10:30 o'clock A. M., by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Franks, Henry, King, Sayers, Swift, Word and Mr. President—14.

Nays—Senators Baker, Flanagan, Fountain, Gaines,

Hall, Rawson, Randle, Ruby, Saylor, Tendick and Tracy—11.

On motion of Senator Ruby, House bill No. 869, "An act to amend the tenth and twelfth sections of an act to regulate proceedings in the district courts, approved May 13, 1846," and House bill No. 868, "An act to amend the first and fourth sections of an act entitled an act to reduce into one and amend the several acts," were referred to the following select committee, viz.: Senators Finlay, Fountain and Henry.

Senator Flanagan offered the following resolution, which was adopted:

WHEREAS, A more intimate association between the people of the Northwestern States and the State of Texas will contribute much to the enhancement of the material interests of our State; and

Whereas, We learn with pleasure that many of the Governors, official dignitaries and members of Congress of the Northwest contemplate visiting the city of Galveston in the next four weeks; therefore, be it

Resolved by the Senate of the State of Texas, the House concurring, That a cordial invitation be and is hereby extended to the aforesaid Governors, official dignitaries and members of Congress, to extend their visit to the capital of our State, and that a copy of this resolution be transmitted by the President of the Senate and Speaker of the House of Representatives to the mayor of Galveston, with the request to communicate the same to our distinguished visitors on their arrival at Galveston.

Senator Dohoney moved to suspend the rules to take up Senate bill No. 307, "An act in regard to judicial districts," upon which the yeas and nays were called for, with the following result:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Henry, King, Randle, Sayers, Swift, Word and Mr. President—14.

Nays—Senators Baker, Fountain, Franks, Gaines, Hall, Rawson, Ruby, Saylor, Tendick and Tracy—10.

Lost.

Senator Tendick offered petition of citizens of Colorado county, asking for relief for C. C. King. Read and referred to the Committee on State Affairs.

On motion of Senator Fountain, Senate bill No. 336 was made special order for to-morrow at 10:30 A. M.

Senator Dillard in the chair.

Senate bill No. 316, "An act authorizing the purchase of additional grounds for the use of the Asylum for the Blind, and making appropriation therefor," was read second time and ordered engrossed.

Senator King, chairman of the committee on Engrossed Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Engrossed Bills have examined the following bills, and find them correctly engrossed:

Senate bill No. 349, "An act making an appropriation to carry into effect an act authorizing quarantine on the coast of Texas and elsewhere within the State, approved June 10, 1870."

No. 42, joint resolution making an appropriation to carry into effect the provisions of a joint resolution awarding Winchester rifles to certain parties, approved March 28, 1873.

HENRY C. KING, Chairman.

On motion of Senator Fountain, the Senate adjourned to 4 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment Roll called; quorum present.

Senate bill No. 299, "An act concerning divorce and alimony," with a report from Judiciary Committee No. 1, recommending that the bill do not pass, was taken up and report adopted.

Senate bill No. 285, "An act concerning estates of minors and deceased persons," with report of Judiciary Committee No. 1, recommending that the bill do not pass, was taken up and report adopted.

Senate bill No. 249, "An act to provide as far as is now practicable for giving effect to section twenty-five of article twelve of the Constitution of the State of Texas," together with the report of committee, recommending a substitute, was taken up.

Senator Franks moved to indefinitely postpone the whole matter. Carried by the following vote:

Yeas—Senators Avinger, Baker, Evans, Finlay, Flanagan, Franks, Gaines, Rawson, Randle, Sayers, Swift and Word—12.

Nays—Senators Ball, Dillard, Dohoney, Fountain, Hall, Henry, King, Ruby, Tendick and Mr. President—10.

Senator Ruby moved to reconsider the vote taken on the adoption of a resolution offered by Senator Word, which provides that no bills of a private nature shall be taken up until all general business is disposed of.

Senator Flanagan moved to lay the motion to reconsider on the table.

Carried by the following vote :

Yeas—Senators Avinger, Baker, Flanagan, Franks, Gaines, Hall, Henry, King, Rawson, Sayers, Swift, Word and Mr. President—13.

Nays—Senators Ball, Cole, Dillard, Dohoney, Evans, Finlay, Fountain, Randle, Ruby, Saylor and Tendick—11.

A message was received from the House informing the Senate that the House had passed Senate joint resolution No. 23, instructing our Senators and requesting our Representatives in Congress to urge upon the Federal Government the propriety of removing certain tribes of hostile Indians from the frontier of Texas.

House bill No. 50, "An act to regulate the practice of medicine," was taken up. The bill was read second time.

Senator Finlay offered the following amendment: "Provided, that this act shall not apply to homeopathic physicians."

Lost by the following vote :

Yeas—Senators Baker, Dillard, Dohoney, Finlay, Fountain, Franks, Gaines, Randle and Ruby—9.

Nays—Senators Avinger, Ball, Cole, Evans, Flanagan, Hall, Henry, King, Rawson, Saylor, Sayers, Swift, Tendick, Word and Mr. President—15.

Senator Dohoney moved to indefinitely postpone the bill. Lost by the following vote :

Yeas—Senators Dillard, Dohoney, Evans, Fountain and Franks—5.

Nays—Senators Avinger, Baker, Ball, Cole, Finlay, Flanagan, Gaines, Hall, Henry, King, Rawson, Randle, Ruby, Saylor, Sayers, Swift, Tendick, Word and Mr. President—19.

Senator Dillard in the chair.

Senator Dohoney moved to refer the bill to Judiciary Committee No. 2. Lost by the following vote :

Yeas—Senators Dillard, Dohoney, Evans and Fountain—4.

Nays—Senators Avinger, Baker, Ball, Cole, Finlay, Flanagan, Franks, Gaines, Hall, Henry, King, Rawson, Randle, Ruby, Saylor, Sayers, Swift, Tendick and Word—19.

Senator Dohoney then moved to amend the bill as follows: "*Provided*, that this act shall not apply to the Eleventh and Twenty-first Senatorial Districts."

Senator Rawson moved to lay the amendment on the table.

Senator Saylor moved to adjourn until 9 o'clock A. M. to-morrow. Lost by the following vote:

Yeas—Senators Dohoney, Evans, Fountain, Hall, Ruby and Saylor—6.

Nays—Senators Avinger, Baker, Ball, Cole, Dillard, Finlay, Flanagan, Franks, Gaines, Henry, King, Rawson, Randle, Sayers, Swift, Tendick and Word—17.

Senator Cole moved the previous question. Carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Finlay, Flanagan, Franks, Hall, Henry, King, Rawson, Randle, Sayers, Swift, Tendick and Word—17.

Nays—Senators Dohoney, Evans, Fountain, Gaines, Ruby and Saylor—6.

The question being the adoption of the motion to lay the amendment on the table, the same was put, and the amendment laid on the table by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Finlay, Flanagan, Hall, Henry, King, Rawson, Randle, Sayers, Swift, Tendick, Tracy and Word—16.

Nays—Senators Dillard, Dohoney, Evans, Fountain, Franks, Gaines, Ruby and Saylor—8.

The bill then passed to a third reading by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Finlay, Flanagan, Hall, Henry, King, Rawson, Randle, Ruby, Sayers, Swift, Tendick, Tracy, Word and Mr. President—19.

Nays—Senators Dohoney, Evans, Fountain, Franks, Gaines and Saylor—6.

Senator Avinger moved a suspension of the rules to put the bill on its final passage. Lost by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard,

Finlay, Flanagan, Hall, Henry, King, Rawson, Randle, Ruby, Sayers, Swift, Tendick, Tracy, Word and Mr. President—19.

Nays—Senators Dohoney, Evans, Fountain, Franks, Gaines and Saylor—6.

On motion of Senator Ruby, the Senate adjourned till 9 o'clock A. M. to-morrow.

SENATE CHAMBER,
AUSTIN, TEXAS, May 16, 1873. (

Senate met pursuant to adjournment. Roll called; quorum present.

On motion of Senator Gaines, the reading of the journal of yesterday was dispensed with.

Senator Fountain introduced a bill to be entitled "An act to grant the ferry franchise to the city of Brownsville." Read first time and referred to Judiciary Committee No. 1.

Also, a bill to be entitled "An act to amend an act prescribing the times of holding district courts in the several judicial districts of the State, approved August 10, 1870, approved April 17, 1871."

Senator Swift introduced a bill to be entitled "An act making additional appropriation to pay the *per diem* and mileage of witnesses in the case of the impeachment of Judge John G. Scott, and other expenses incident to said case."

The bill was read first time; rules suspended, read second time and ordered engrossed; rules further suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dohoney, Fountain, Franks, Gaines, Hall, Henry, Latimer, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Word and Mr. President—19.

Nays—Senators Baker and Tracy—2.

On motion of Senator Cole, Senate bill No. 292, "An act to incorporate the Sherman, Tyler and Henderson Railway Company, and to grant lands to aid in the construction thereof," was taken up, and the Senate concurred in the House amendments.

Senator Shelley in the chair.